

## **CITY OF HAYWARD AGENDA REPORT**

Meeting Date 01/24/02  
Agenda Item 1

**TO:** Planning Commission

**FROM:** Erik J. Pearson, AICP, Associate Planner

**SUBJECT:** Site Plan Review Application No. 2001-0270 & Variance Application No. 2002-0027 – Bing Magpayo (Applicant/Owner): Request to Allow the Construction of a Duplex Residence in the CO (Commercial Office) Zoning District and for a Variance to Allow Vehicles to Back Out (Forward Motion Required) of the Garage Onto Prospect Terrace

The Property Is Located at 22377 Main Street at the Northwest Corner of Hotel Avenue

### **RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, *New Construction or Conversion of Small Structures*; and
2. Approve the Site Plan Review and Variance, subject to the attached findings and conditions of approval.

### **BACKGROUND:**

Main Street, Hotel Avenue and Prospect Terrace border the site. The property has been vacant at least since 1976 as shown on the City's historical aerial photographs; the 1923 Sanborn Map shows the site occupied by a 1 – 2 car garage. Development of the property has likely been discouraged by the small size (4,800 square feet), the slope of the lot, and its proximity to the Hayward Fault. The site is underlain by fault traces of the Hayward fault. The applicant has had geotechnical reports prepared and has received approval from the City's Engineering Division for construction on the site.

### **DISCUSSION:**

The purpose of the CO zoning district is "to provide for and protect administrative, professional, business and financial organizations which may have unusual requirements for space, light and air, and which are clean and quiet and which are not detrimental to the residential use of adjacent

properties.” Multiple-family dwellings, such as the proposed duplex, are primary uses in the CO District.

The General Plan designation for the property is Medium Density Residential (MDR), which allows for up to 17.4 dwelling units per net acre. At least 5,007 square feet of lot area are required to build two residential units on the site, whereas this lot is only 4,800 square feet (or 96 percent of the minimum).

Section 10-1.2830(c) of the Zoning Ordinance allows the Planning Director to administratively reduce any required lot size standard by 10 percent when “in the opinion of the Planning Director no practical alternative exists, the purpose of the district would not be compromised, no detrimental impact would result aesthetically, and the proposed use or construction otherwise complies with the City’s land use and Building Code regulations.” The purpose of the district would not be compromised in that multiple-family dwellings are listed as a primary use for the CO zoning district and it is desirable to encourage higher-density residential development at the edge of the downtown core.

The applicant and his architect originally worked with staff on a proposal for a mixed-use project consisting of a commercial office and one apartment. Because of site limitations, a solution could not be found that would provide for required handicap accessible parking and the vehicle turn-around space necessary to prevent cars from backing out onto the surrounding streets, required for commercial uses. Staff supports the use of the property as residential as the size and slope render the site impractical for commercial or mixed-use development.

### Project Description

The proposal is for a two-unit multi-family residence with an attached four-car garage. The garage consists of two side-by-side tandem garages. One unit contains 1,848 square feet and has two bedrooms while the other contains 1,039 square feet with one bedroom. The building, designed to be 35 feet high, is below the height limit of 40 feet for the CO District. The height of the garage controls the height of the building as it is raised above the natural grade so that the maximum driveway slope off Prospect Terrace is not exceeded. The lower level at the east end of the building, off Main Street, would be for storage only; each unit will have the required minimum of 90 cubic feet of storage space in this area. The building would cover only 40 percent of the lot while the maximum lot coverage permitted is 50 percent.

The building’s mass is broken up by an open entry area, which separates the living areas, giving the appearance of two separate buildings on one foundation. The horizontal redwood siding will give the building a softer look, further reducing the massing. The foundation is under-emphasized by the decorative block wall material and the tendency is for the eye to focus on the redwood siding and large windows of the living area, which is cantilevered over the foundation wall. All street frontages will be landscaped with lawn, shrubs and six street trees in addition to the two existing street trees.

The building is designed such that no parking is visible from either Hotel Avenue or Main Street; the garage is accessed from Prospect Terrace. Prospect Terrace serves as an alley, providing

access to garages and to the rear of lots on Main Street. A row of period style bungalows lines Hotel Avenue to the west.

A general policy of the North Hayward Neighborhood Plan is to protect the character of individual neighborhoods. One policy specifically calls for the extension of the Prospect Hill ambiance "to the whole hill" by discouraging large blocky buildings with flat roofs. The implementation of this policy called for the rezoning of a portion of the Commercial Office zoning district to Residential Office. The rezoning did not cover this area between Warren Street and Hotel Avenue. It appears that the intent was not to impose the "Prospect Hill" architecture to this area west of Main Street and south of Warren Street. This property connects more strongly visually and by its proximity, to the Downtown Core than to Prospect Hill.

The lot is bordered by older Tudor style homes to the west; bungalows and other buildings of nondescript styles to the north, commercial office buildings and a parking lot to the east; and to the south are unfinished and dilapidated commercial masonry buildings. There is not a dominant architectural style found in the area. The divergent styles of surrounding buildings provide an opportunity to introduce this building with a striking, avant-garde architecture. To the north on Main Street, as shown in the pictures supplied by the applicant, there are many other buildings with flat roofs and angular shapes. The creativity shown by the architect may fit in well with this eclectic neighborhood.

The Marks Historic District Citizens Advisory Board reviewed and commented on the design of the plans at their regular meeting on November 8, 2001 (see minutes attached). The Board recognized that the architecture is different from the surrounding buildings, and that there is not a single theme for the area that would dictate the style for a home on this lot. The Board approved the plan with a vote of 3 – 2. The two dissenting votes were cast by Board members who believe that the size of the building and the architectural style are not appropriate for this area.

A letter from the owners of the adjacent lot to the north, West Properties, objecting to the proposal, was received on November 26, 2001. The Wests believe that the architecture is not consistent with the "old downtown theme." They cite that the building is too modern, cold, angular and too large for the site. The proposed duplex would be approximately 10 feet away from their existing apartment house, however impacts to privacy are minimized by the two very small windows on the north elevation of the proposed building.

#### Variance Discussion

Section 10-1.400(m)(6) of the Zoning Ordinance requires multiple-family residential development to have a driveway turnaround sufficient to allow vehicles to exit the property in a forward direction. The applicant is proposing two tandem garages sharing a driveway off Prospect Terrace. Due to the small size of the lot, the slope of the lot and the slopes of the surrounding streets, there is no feasible alternative to having cars back onto Prospect Terrace. There are other residential properties on Prospect Terrace with similar garage locations, so this would not be the only property having vehicles backing onto the street. The garage will not pose a safety problem due to the low volume of traffic on Prospect Terrace. Staff supports the

request for a variance because it enables the project to create a higher density of living units in proximity to downtown.

#### **ENVIRONMENTAL REVIEW:**

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, *New Construction or Conversion of Small Structures*.

#### **PUBLIC NOTICE:**


On September 26, 2001, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the North Hayward Neighborhood Plan Task Force members and the Hayward Area Planning Association. The Referral Notice provided an opportunity for persons to comment on the project. As mentioned above, staff has received one letter from a neighboring property owner.

On January 14, 2002, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to help notify neighbors and interested parties residing outside the 300-foot radius.

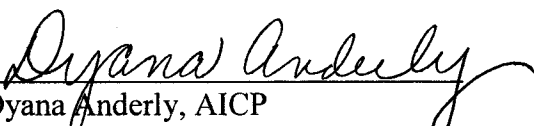
#### **CONCLUSION:**

The proposed project is consistent with adopted land use policies of the General Policies Plan and the North Hayward Neighborhood Plan. The project also meets all applicable requirements of the Zoning Ordinance and other applicable ordinances. While the architectural style is avant-garde, it contributes to the eclectic mix of styles in the immediate neighborhood. Staff recommends that the Site Plan Review and Variance be approved.

*Prepared by:*

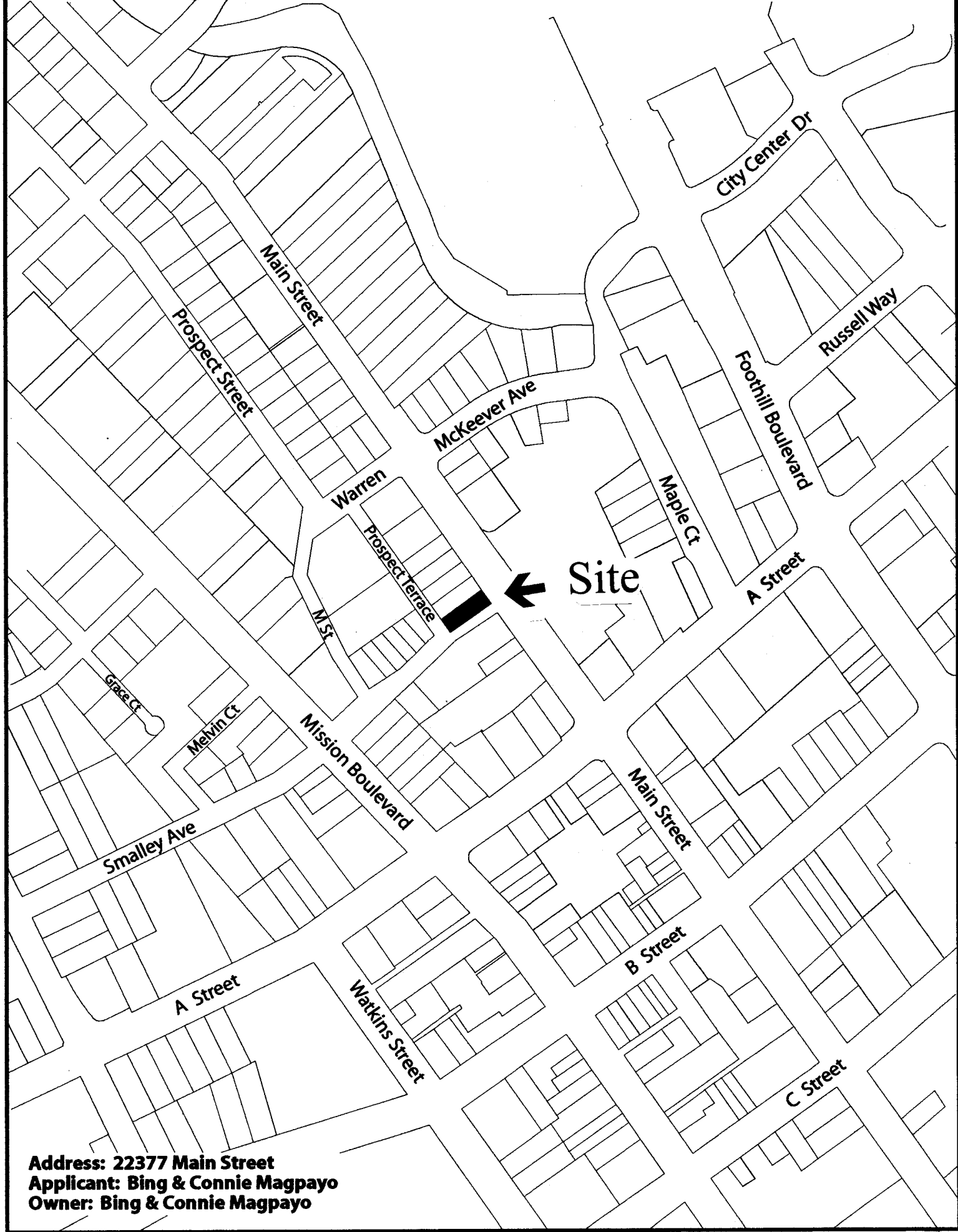
  
\_\_\_\_\_  
Erik J. Pearson, AICP  
Associate Planner

*Recommended by:*

  
\_\_\_\_\_  
Dyana Anderly, AICP  
Planning Manager

**Attachments:**

- A. Area & Zoning Map
- B. Findings for Approval for Site Plan Review 2001-0270 and Variance 2002-0027
- C. Conditions for Approval for Site Plan Review 2001-0270 and Variance 2002-0027
- D. Minutes from the CAB meeting of November 8, 2001
- E. Letter from neighbor dated November 8, 2001
- F. Letter from applicant dated December 20, 2001  
Plans



**Address: 22377 Main Street**  
**Applicant: Bing & Connie Magpayo**  
**Owner: Bing & Connie Magpayo**

## **FINDINGS OF APPROVAL**

### **SITE PLAN REVIEW APPLICATION NO. 2001-0270 & VARIANCE APPLICATION NO. 2002-0027**

**Bing & Connie Magpayo (Applicants/Owners)**

**22377 Main Street**

**Request to construct a new two-unit multi-family residence.**

#### **General**

- A. The approval of Site Plan Review Application No. 2001-0270 and Variance Applications No. 2002-0027, as conditioned, will have no significant impact on the environment, cumulative or otherwise. The project reflects the City's independent judgment, and the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303, of the CEQA Guidelines (*New Construction or Conversion of Small Structures*).

#### **Site Plan Review**

- B. The proposed project, as conditioned, will be compatible with surrounding structures and uses and is an attractive addition to the City in that the architecture of the buildings will be a complement to the neighborhood and the landscaping will help enhance the appearance of the area.
- C. The development takes into consideration physical and environmental constraints in that the architect has designed the foundation and garage/driveway in a manner most practical for the site.
- D. The development complies with the intent of City development policies and regulations including, but not limited to open space, parking (with the exception of vehicles backing out onto the street), landscaping, setbacks and height limits.
- E. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.
- F. That the proposal is compatible with the policies and strategies of the General Plan and North Hayward Neighborhood Plan in that the general plan calls for residential use and that the site best suited, in terms of size and location, for residential use.

#### **Administrative Modification**

- G. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints. The size of the lot is

**ATTACHMENT B**

only four percent below the minimum standard and higher densities of living units are desirable near downtown.

- H. The administrative reduction in the required lot size would not compromise the purpose of the district in that multiple-family dwellings are a primary use of the Commercial Office zoning district.
- I. No practical alternative to the lot size reduction exists.
- J. No detrimental impact would result from the modification because the additional dwelling unit causes no change to the exterior building design.
- K. The proposed design otherwise complies with the City's land use and Building Code regulations.

#### **Variance**

- L. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints. The property is well suited for multiple-family development, but the size and slope make it infeasible to provide a vehicle turn-around.
- M. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification. Other lots fronting Prospect Terrace have garages facing the street with no turnaround.
- N. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.



## CONDITIONS OF APPROVAL

### **SITE PLAN REVIEW APPLICATION NO. 2001-0270 & VARIANCE APPLICATION NO. 2002-0027**

**Bing & Connie Magpayo (Applicants/Owners)**

**22377 Main Street**

**Request to construct a new two-unit multi-family residence.**

#### **General:**

1. Application Nos. **PL-2001-0270 and PL-2002-0027** is approved subject to the conditions listed below. This permit becomes void **one year** after the effective date of approval, unless prior to that time a building permit application has been accepted for processing by the Building Official, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division **15** days prior to the above date.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
4. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.
5. Prior to issuance of a building permit, the plans shall be revised to show that each unit has a minimum of 90 cubic feet of storage space.
6. Violation of conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.

#### **Landscaping:**

7. Grading and improvement plans shall include measures for tree protection and preservation as required by the City's Landscape Architect including the installation of a fence at the dripline of the trees during the construction period.
8. A street tree and front-yard landscaping plan shall be submitted for review and approval by the City prior to the issuance of building permits. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance. Front yards shall be limited to a maximum of 50 percent fescue turf. A minimum of one 15-gallon tree shall be provided for every 50 linear feet of street frontage or fraction thereof. Trees shall be

**ATTACHMENT C**

planted a minimum of 5 feet from paving and underground utilities. Trees shall be double-staked per City standard SD-122.

Street trees on Main Street shall be *Sapium sebiferum* – Chinese Tallow tree. Root barriers shall be provided for trees with an aggressive root system.

9. Front-yard landscaping and street trees shall be installed prior to occupancy, unless otherwise approved by the City Landscape Architect.
10. Park Dedication In-Lieu Fees are required for new dwelling units. Fees will be those in effect at the time of issuance of the building permit.

**Public Works/Division of Engineering:**

11. Dedicate a 6' x 6' easement for the existing fire hydrant prior to the issuance of certificate of occupancy.
12. Prior to issuance of a Building Permit, submit plan for the proposed street improvements.
13. Construction plans shall include handicap ramps at the street corners.
14. Any broken curb, gutter and sidewalk along the property frontage shall be removed and replaced.
15. All retaining walls shall be reinforced concrete.

**Public Works/Division of Utilities:**

16. Show location of water and sewer main in the abutting street on plans.
17. Show location of water meter on plans. Keep in mind that water meters are to be located a minimum of two feet from top of driveway flare as per City of Hayward Standard Details 213 thru 218. Water meter to be located a minimum of six feet from sanitary sewer lateral as per State Health Code.
18. Show Gallon Per Minute Demand on plans to determine proper meter size.
19. Show following notes on plans:
  - a) Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate as per Hayward Municipal Code 11-2.02.1.
  - b) Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
  - c) Water and Sewer service available subject to standard conditions and fees in effect at time of application.

**ATTACHMENT C**

**Fire Department:**

20. The house will be required to have the following:

- a) A minimum 6-inch address shall be installed on the building so as to be visible from the street. A minimum 4-inch address will be acceptable if it is self-illuminated.
- b) Smoke detectors shall be installed per the Uniform Building Code.
- c) A spark arrestor shall be installed on any chimney caps.

**Public Works/Division of Solid Waste & Recycling:**

21. This approval is subject to the requirements contained in the memo from the Solid Waste and Recycling Division of the Public Works Department dated 9/28/01.

**ATTACHMENT C**

**MARKS HISTORIC REHABILITATION DISTRICT  
CITIZENS' ADVISORY BOARD  
SPECIAL MEETING MINUTES**

**Thursday 8 November 2001  
City Hall, 777 "B" Street, Room 2B, Hayward, CA 94541**

Present: Clarence Jackson, Banning Fenton, Kathy Streeter, Jim De Mersman,  
Keith West, Steve Ignatow

Staff: Richard E. Patenaude, AICP, Principal Planner  
Erik Pearson, AICP, Associate Planner  
Cece Cooke, Secretary, Minutes

Visitors: None

I. Call to Order: 9:01 a.m.

II. Public Comments:  
None.

III. Approval of Minutes:  
M/S/C (Jackson/Streeter) unanimously to approve the minutes of October 4, 2001.

IV. Residence at Corner of Main and Hotel  
Richard Patenaude introduced Erik Pearson, Associate Planner.

Proposal was made to allow a residence in the office/commercial (CO) zone. It is in the Mark's Historic District.

Erik Pearson passed around photos for Committee to review. Property difficult to develop. Got geotechnical clearance to build. 4,800 square feet – small lot. Will be used for a single residence.

Architect, George Tolosa, introduced. He discussed project and passed around drawings for Committee. Pointed out buildings across street – commercial office buildings.

The proposed building would have low profile – flat roofs. Three other buildings in the area have flat roofs. On side of street is two story apartment building. Not in great condition. Hoping their building will refocus and draw quality to area.

It is a single building that appears as two structures, so it does not overwhelm the area.

Redwood siding. All four facades are wood and is characteristic of area. Special concrete block has color tint. Adds to design value. Makes less commercial and more residential.

Banning Fenton asked where building/property started and ended.

George Tolosa said building length is 80'.

Miscellaneous Comments: Hotel view is most prominent view. Site across stopped because fault line runs there. Height is 32'. Discussion about siding.

Committee reviewed photos, drawings further.

George Tolosa noted there is only 10' between the proposed house and the apartment building to the North. Hopes to mask apartment building with the new residence.

Richard Patenaude showed and discussed photos/plans again. Some discussion around landscape. George Tolosa said they are required to have a street tree 20 – 30' along Main and Hotel. Will provide low ground cover and shrub. Erik Pearson said the City does not require a landscape plan for single family projects.

Keith West discussed layout of building. Asked about bedroom. George Tolosa said windows face South and West – Hotel Side and Prospect.

George said the bathroom window is used primarily for light into space.

Staff Concerns: Richard Patenaude – difficult site to work with. Have been a number of proposals. ADA access difficult due to slope and size. Previous proposal was for modular homes. This was discouraged. This is the first serious proposal.

Discussion around location. There is a consistent theme on Prospect. There is mish mash of styles on first two blocks of Main.

Keith West said it is away from town. All residential. He does not agree that the flat top of building fits the down side of the street.

Kathy Streeter said it is a beautiful design, but does not blend with residential or commercial. It will stand out.

Banning Fenton thinks it does blend in with a house already there – the Frederick house. Same design.

Keith West asked if structure was investigated.

George Tolosa said it is within the City's guidelines.

Discussion around residents staring into side of building. Steve Ignatow said it is set back 5'.

Jim De Mersman likes design. Not sure about architecture in that type of neighborhood. But will be nice to have one less vacant piece of land. Close to commercial district. Suggested brick at bottom of building instead of concrete to blend with other surrounding buildings. Brick could also be veneer.

Jim De Mersman asked for motion. Clarence moved to accept plan as is.

Vote taken.

Ayes: 3

Nays: 2

Abstained: 1 – Keith West.

V. General Business:

Keith West distributed minutes from August 26, 1999 meeting that had By-laws.

Paul Dalmon had located By-laws from files that are different than August 1999 By-laws.

At first decided that By-laws would be put under next meeting's agenda. Kathy Streeter suggested that they could be discussed under New Business.

VI. New Business:

By-laws from August 26, 1999 meeting originally were to be presented to Council. Not sure that ever happened due to Personnel changes. Richard Patenaude to check to see if ever put on and if not, the process.

Miscellaneous discussion around By-laws. Eligibility of Members was discussed. Was decided that 7 members would consist of 2 Historical Society, 2 BIA, 2 Chamber of Commerce and 1 tenant or owner. CAB is only board that does not require residency or that financial information be provided.

Earlier By-laws listed Hayward Downtown Association instead of BIA.

Term Limits discussed. 12 years questioned.

Need to find out how to handle Vacancy(ies).

At Large position discussed. Could be owner or tenant. Renting or buying. Person has to be a "downtown" representative because purpose of this Board is "Historical".

Handbook that was made with Historical criteria needs to be handed out to new tenants/owners. Sometimes exterior(s) do not go with the historical. Suggested that staff keep that in mind when new projects are proposed.

Discussion whether to change effective date of By-laws.

VII. Adjournment: 9:32 a.m.

**West Properties**  
**1352 A Street**  
**Hayward, California 94541**  
**510-582-2272**

RECEIVED

November 8, 2001

NOV 26 2001

PLANNING DIVISION

City of Hayward  
Diane Anderly  
Planning Department  
777 B Street  
Hayward, California

RE: **Proposed Project at 22377 Main Street**

Dear Ms. Anderly,

It has come to our attention that the lot at the above address has proposed building plans before the Planning Department. We have had the opportunity to view the architectural drawings. We am writing to you because we object to the building design.

The City of Hayward has a specific plan for the downtown area. The new buildings (City Hall, Albertson's and the new multiple housing) and refurbished buildings (Long's and the Foot-hill Boulevard Hardware store) for example, are all consistent with the over all plan. A new and up dated City of Hayward with the old down town theme.

Mr. Magpayo's proposed building is hugely inconsistent with the over all theme of down town Hayward. If this proposed building is approved it will be an eyesore like the few buildings further up Main Street in the 22200 block of Main Street. In this block there are prime examples of what does not work. A charming ginger bread like home abutting up against a cinder block square building. We do not wish for this particular building style be approved. It is far too modern, cold and angular for Hayward's new theme. Also the proportions of the building design appear to fight it size of the small lot it is to be built on. I do welcome Mr. Magpayo to go back and create a building that is consistent with it neighbors.

Our newest neighbor, the Wienerschnitzel building on the corner of Main and A Street went back to design review more than once to achieve the old downtown theme. This building is consistent with the neighborhood and adds to the downtown natural flow of over all design.

*Please do not approve the plans for this building.* The neighborhood should remain quaint with charming and with the old down town character. We would appreciate it if our objection to this proposed building plan is shared with the City Council and the Marks Historic Advisory Board.

Sincerely,  
Keith West  
Scott West  
Melissa West Phillips

ATTACHMENT E



To: City of Hayward Planning Commission

From: George Edwin Tolosa  
Workshop Building Design  
510/783.8307

Date: December 20, 2001

Re: Proposed design for Mr. Bing Magpayo at 22377 Main St.

Dear Planning Commission Members,

Thank you for taking the time to look at our proposed plans for the residences at 22377 Main St. Enclosed you will find some renderings of our project, a set of plans, site photographs and images of buildings we used as case studies for our design from the surrounding neighborhood.

The corner of Hotel and Main is a visually prominent site. It is special in respect to the fact that it lies directly on the border of two uses, the medium density residential proposal of the North Hayward Plan and the revitalized commercial program for the Downtown Plan. The building we propose acts as an important "transition" between these two areas. In addition, the first building you currently see in this corner is a poorly kept, badly in disrepair apartment building that brings down the character and quality of the neighborhood, as is evident in the site photographs. Our proposed design intends to "counter act" these effects by erecting a home of quality design and materials.

We would like to make the case that our proposed design is ideal for its site and the surrounding neighborhood, and further more, that a "ginger bread" or "traditional" design is clearly inappropriate. Rather than a single style of architecture, Main St. benefits from having a diverse make-up in its architectural imagery, zoning uses, and housing options.

If anything, we've determined through the case studies enclosed that the Main St. Corridor embodies a contemporary feel. We believe that by bringing the best aspects of the neighborhood into our building's design, we have been able to maintain the spirit of the Main St. Corridor as a diversified, contemporary neighborhood, much like the city of Hayward itself as a whole.

What we have proposed is a home born out of quality and inspiration. I hope the Planning Commission will agree with this study, and approve our design.

Thank you again for your consideration,

George Edwin Tolosa